

### **REMARKS/ARGUMENTS**

Claims 1-3, the Specification and the Abstract have been amended. No new matter has been added. As a typographical error was inadvertently introduced into the Substitute Specification submitted with the Amendment filed 8 April 2008, a New Substitute Specification is attached hereto. Claims 1-4 and 6-8 remain pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the pending claims are allowable.

### **OBJECTIONS TO THE SPECIFICATION**

The Abstract stands objected to because it is inconsistent with the Applicant's prior amendment. (See 7/21/08 Office Action, p. 2.) The Specification stands objected to for the same reason. (See id.) The Specification stands further objected to because it lists three advantages of the exemplary method and numbers them 4 to 6 rather than 1 to 3. (See id.) In view of the above amendments, it is respectfully submitted that these objections should be withdrawn.

### **NEW MATTER OBJECTION**

The Amendment filed April 8, 2008, stands objected to under 35 U.S.C. § 132(a) for introducing new matter into the disclosure. (See 7/21/08 Office Action, pp. 2-4.) Specifically, the Examiner asserts that the amendments to steps 119 and 123 of the exemplary method introduce new matter not supported by the original disclosure. (See id.) The Applicant respectfully submits that support for the amendment to step 119 of the exemplary method can be found on page 8, lines 2 –

page 9, line 3 of the application as originally filed. Specifically, this passage provides support (and exemplary formulas) for summing and averaging the R.G.B. values for the data read from the calibration chart 16. Similarly, support for the amendment to step 123 of the exemplary method can be found on page 9, lines 4-7 of the application as originally filed. Specifically, an exemplary formula using the summed and averages RGB values are provided. Accordingly, the Applicant respectfully submits that this objection should be withdrawn.

#### **OBJECTIONS TO THE CLAIMS**

Claims 1, 2 and 3 stand objected to because of various informalities. (See 7/21/08 Office Action, pp. 4-6.) In view of the above amendments, it is respectfully submitted that these objections should be withdrawn.

#### **CLAIM REJECTIONS – 35 U.S.C. § 112**

Claim 1 stands rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. (See 7/21/08 Office Action, pp. 6-7.) The Examiner asserts that claim 1 contains subject matter that was not described in the Specification in such a way as to convey to one skilled in the art that the inventor had possession of the invention at the time the application was filed. (See *id.*, p. 6.) Specifically, the Examiner asserts that the limitations “summing the digital first R.G.B. value and the digital second R.G.B. value, and further averaging the summed digital first and second R.G.B. values” and “referring to the digital summed R.G.B. values and digital averaged R.G.B. values, wherein said calibration of said color image scanner is independent of a light source” were not properly described in the application as filed. (See *id.*) The

Examiner further asserts that the disclosure does not teach how the compensation uses the summed and averaged values. (See *id.*) The Applicant respectfully submits that the limitation “summing the digital first R.G.B. value and the digital second R.G.B. value, and further averaging the summed digital first and second R.G.B. values” is described in the Specification by equations (1), (2) and (3), provided on page 8, lines 12-14 of the application as filed as well as page 29 of the Amendment of April 7, 2008. Furthermore, the originally filed claims 6 and 7 describe and provide examples of summing and averaging.

In addition, the Applicant respectfully submits that the limitation “compensating the scanned image referring to the digital summed R.G.B. values and digital averaged R.G.B. values, wherein said calibration of said color image scanner is independent of a light source” is described by the equation described with reference to step 123 of the exemplary method and provided on page 9, line 7 of the application as filed as well as page 29 of the Amendment of April 7, 2008. The Applicant notes that step 123 of the exemplary method states, “then the color image scanning system processes scanning and compensating the scanned image referring to the summed R.G.B. value and averaged R.G.B. value.” (See Specification, p. 7, line 8) Again, originally filed claim 8 provides a formula of one exemplary manner of compensating the scanned image. Therefore, the Applicant respectfully submits that the Specification describes the above limitations sufficiently and that the rejection should be withdrawn.

#### **CLAIM REJECTIONS – 35 U.S.C. § 103(a)**

Claims 1-4 and 6-8 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,408,231 to Bushaw et al. (hereinafter “Bushaw”) in view of

U.S. Patent No. 6,480,625 to Yamazaki (hereinafter "Yamazaki"). (See 7/21/08 Office Action, pp. 8-21.)

The Applicant initially notes that the Examiner failed to address the first argument asserted in the Amendment filed on April 7, 2008, in response to the Office Action of December 10, 2007. Specifically, the claims of the present invention are directed to methods for calibrating a color image scanner "wherein said calibration of said color image scanner is independent of a light source." In contrast, Bushaw teaches away from such a calibration by instead calibrating a *light source* used in an image scanner. (See Bushaw, col. 1, lines 9-10.) Thus, the Applicant respectfully submits that the combination of Bushaw with Yamazaki in the manner described by the Examiner is improper.

Additionally, Bushaw is directed to devices and methods for performing the described calibration process *before* an analog signal is digitized or otherwise processed. (See *id.*, col. 1, lines 7-8.) Bushaw acts in this sequence in order to insure that the maximum range of its analog-to-digital converter will be available to digitize a recorded analog signal. (See *id.*, col. 3, lines 20-22.) In contrast, claim 1 recites a method including the step of "converting the first data of the white region to a digital first R.G.B. value" performed as part of a calibration method. Addressing this limitation, the Examiner cites Bushaw, col. 3, lines 39-41. (See 7/21/08 Office Action, p. 2.) However, the cited portion of Bushaw does not contradict the above assertion that Bushaw performs its calibration before digitization occurs, as it is unclear, based on the cited portion of Bushaw, whether the described conversion of the first data to a digital value is part of the calibration process or whether it occurs afterwards.

Further, claim 1 recites “adjusting the gain value according to a difference between the maximum value and the sensed pixel value.” Addressing this limitation, the Examiner cites the description of a VGA Gain Set routine illustrated in column 9 of Bushaw, stating that when the digitized “white follower value” is not in a predetermined region (in this case, at the maximum value 7F), the “gain adjustment value” is “adjusted” to a “unitary value” so that the current gain value is incremented. (See 7/21/08 Office Action, p. 11.) The Applicant respectfully submits that Bushaw contains no disclosure of an adjustment that is “according to a *difference* between the maximum value and the sensed pixel value,” nor has the Examiner pointed to any specific point at which Bushaw describes the use of such a difference between two values. Therefore, it is respectfully submitted that Bushaw does not describe “adjusting the gain value according to a difference between the maximum value and the sensed pixel value,” as recited in claim 1.

Yamazaki fails to cure the deficiencies of Bushaw described above with reference to claim 1. Accordingly, it is respectfully submitted that claim 1 is allowable over Bushaw in view of Yamazaki, and that this rejection should be withdrawn. Because claims 2-4 and 6-8 depend from, and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the foregoing reasons.

For all of the foregoing reasons, it is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

No fees are believed to be due with this Amendment. If there are any charges associated with this filing, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

This Amendment was prepared by Applicant, and is being submitted without substantive change by the undersigned Attorney.

Respectfully submitted,

For: Rosenberg Klein & Lee

A handwritten signature in cursive script that reads "David I. Klein".

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